



Montana Environmental Trust Group, LLC
Trustee of the Montana Environmental Custodial Trust
PO Box 1230, East Helena, Montana 59635
Telephone: (406) 227-1242

January 31, 2012

CERTIFIED MAIL--Return Receipt Requested

Betsy Burns
RCRA Project Officer
EPA Region VIII
Montana Office
10 West 15th St., Suite 3200
Helena, MT 59626

RE: Consent Decree Civil Action No. CV 98-3-H-CCL East Helena Site
Work Performed in December 2011; Progress Report

Dear Betsy:

On May 5, 1998, ASARCO and the United States Environmental Protection Agency ("EPA") entered into a Consent Decree (the "Decree") to further the objectives of the Resource Conservation and Recovery Act ("RCRA") and the Clean Water Act ("CWA"). On December 9, 2009, the Montana Environmental Trust Group, LLC, Trustee of the Montana Environmental Custodial Trust (the "Custodial Trust") was established as part of the larger ASARCO bankruptcy settlement agreement to provide operational, remediation and revitalization activities at the Montana Sites, which include the East Helena Smelter. The United States and the State of Montana are the two designated beneficiaries of the Custodial Trust.

Pursuant to the Settlement Agreement, a motion to reopen the Decree and substitute the Custodial Trust for ASARCO was granted by the US Federal District Court in January 2010. As of the date of this report, EPA, DOJ and the Custodial Trust have finalized a First Modification to the Decree that conforms to the terms of the Settlement Agreement. The First Modification to the Decree, as approved by the parties, was filed with the Court on January 17, 2012. As with this report, future progress reports prescribed by the Decree, as so amended, will be submitted to EPA by the Custodial Trust.

Section XII of the Decree (Reporting: Corrective Action) requires submittal of certified monthly progress reports to EPA to describe the actions taken to achieve compliance with the Decree. The following describes those activities that have occurred or are related to activities that took place during December 2011. As to any actions performed by ASARCO, the Custodial Trust's predecessor-in-interest, the descriptions are based on information and belief only.

[This Space Intentionally Blank]

SECTION 1. DESCRIPTION OF ACTIVITIES FOR DECEMBER 2011

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
1. Draft Phase II RFI	Hydrometrics/ GSI	Custodial Trust provided the draft Phase II RFI to the Beneficiaries on May 20 th for their review and comment.	No Data Submittal	No problems encountered.	90%
2. 2011 Field Sampling and Analysis Plan (FSAP)	Hydrometrics	No FSAP sampling activities in December	Continuous and ongoing updates to the Site Database.	No problems encountered.	100%
3. Groundwater and Surface Water Monitoring	Hydrometrics	All 4 th Quarter groundwater and surface water monitoring was completed in November 2011.	No Data Submittal	No problems encountered.	100%
4. Data Management Plan (DMP) and Quality Assurance Project Plan (QAPP)	Hydrometrics	EPA requested formal procedures be developed to review and verify all data entered into the database. On June 2 nd , Hydrometrics Contract Modification #3 was executed to revise and update the DMP and addend the QAPP.	Revised DMP and QAPP were completed by August 12 th	No problems encountered.	85%

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
5. Corrective Measures Study (CMS)	CH2M-Hill	<ol style="list-style-type: none"> 1. On December 6, EPA directed the Custodial Trust to proceed with development of an Interim Measures Work Plan (IMWP). 2. On December 8, the Custodial Trust approved a revised change order authorizing CH2MHill to continue development of a draft Interim Measures Implementation Plan (IMIP) which will include identification of key tasks to be implemented in 2012 and coordination with South Plant Hydraulic Controls (SPHC) concept development, the draft Five-Year Plan, the CMS WP and natural resource permitting activities. 3. On December 21, the Custodial Trust met with the Lewis & Clark County Historic Preservation officer to discuss historic preservation requirements for demolition activities planned for 2012. 4. On December 28, CH2M Hill issued the first draft of the CMS work plan to the Custodial Trust and EPA. EPA distributed the draft CMS work plan to MDEQ, MDOJ and USFWS for review and comment. 5. On December 30, CH2M Hill issued proposed work scopes and budgets for project management and interim measuring (including SPHC) to be performed in by CH2M Hill in 2012. 6. On December 30, CH2M Hill issued the first draft of the Interim Measure Implementation Plan (IMIP) and schedule to the Custodial Trust for review and comment. 	<p>CH2M Hill issued first draft of CMS work plan on December 28th.</p> <p>CH2M Hill issued proposed work scopes and budgets for interim measures and project management on December 30th.</p>	No problems encountered.	75%

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
6. South Plant Hydraulic Control (SPHC)	Hydrometrics, Pioneer Technical Services, CH2M-Hill, Morrison-Maierle, Inc., Applied Geomorphology Inc.	<ol style="list-style-type: none"> 1. During the month of December, EH personnel inspected the condition and integrity of the UL diversion structure and smelter dam as part of the ongoing UL aquifer test. 2. During the month of December, EH personnel continued collecting daily, hand-measured water level data from wells and surface water locations to monitor response to the UL aquifer test. Progress and data reports were distributed to the beneficiaries. 3. On December 7, Hydrometrics provided an updated analysis of transducer data and hand-measured water level data for the UL aquifer test. 4. On December 7, the Custodial Trust, EPA and CH2MHill reviewed outstanding issues related to draft CMS work plan (WP) and plans for issuance of the revised draft WP to the beneficiaries. 5. On December 13, EPA, MDEQ, MDOJ, USFWS and the Custodial Trust reviewed the rankings and analyses of the SOQs submitted for developing a numeric groundwater and fate/transport model and providing on-going hydrogeologic services (the GW Model SOQ). The agencies and the Custodial Trust generally agreed on the preferred team began interviewing references for the preferred team. 6. On December 15, EH personnel installed heat tracing and insulation on UL and Lower Lake (LL) piezometers. 	<p>East Helena personnel distributed daily progress and data reports for the SPHC aquifer test to the beneficiaries.</p> <p>Hydrometrics submitted graphs of transducer data from the UL aquifer tests.</p>	No problems encountered.	55%

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
South Plant Hydraulic Control (SPHC) (cont.)	Hydrometrics, Pioneer Technical Services, CH2M-Hill, Morrison-Maierle, Inc., Applied Geomorphology Inc.	<p>7. Hydrometrics provided an updated analysis of transducer data and hand-measured water level data for the UL aquifer test.</p> <p>8. On December 20, the Custodial Trust and Hydrometrics identified locations for siting additional wells/piezometers and borings east of PPC to better characterize hydrogeologic conditions required for implementation of the South Plant Hydraulic Control (SPHC) interim measure and groundwater modeling.</p> <p>9. On December 21, the Custodial Trust initiated drawdown of the reservoir behind the smelter dam and further lowering of UL water levels by opening the west headgate on the dam. During the first 24 hours, water levels dropped ~3 feet behind the dam and ~1/2 inch in UL with no observed increases in turbidity. EH personnel continued daily monitoring of turbidity and water levels through December 25 and provided EPA with summaries of the turbidity and gage height data .</p> <p>10. On December 27, the Custodial Trust and CH2M Hill reviewed conceptual design plans for work to be performed in 2012 and 2013 on the South Plant Hydraulic Control (SPHC) interim measure, including re-alignment of Prickly Pear Creek (PPC), consolidation of wastes on-site and construction of an Evapo-Transpirative (ET) cover system.</p>		No problems encountered.	55%

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
7. Baseline Ecological Risk Assessment (BERA)	Gradient	1. On December 16, Gradient issued and distributed the final BERA report to the Custodial Trust and the beneficiaries.	Final documents for the BERA were submitted on December 16 th .	No problems encountered.	100%
8. Human Health Risk Assessment (HHRA)	Exponent/CH2M-Hill	1. On December 11, CH2MHill provided the Custodial Trust and EPA with the first draft of the Screening Level Human Health Risk Assessment.	First draft of Screening Level Human Health Risk Assessment was submitted on December 11 th .	No problems encountered.	85%
9. Consent Decree Modification	Custodial Trust/DOJ	1. On December 16, the First Modification to the 1998 Consent Decree was filed in US District Court, District of Montana (Helena Division) (along with an Unopposed Motion to Enter Modification of Consent Decree) and US Bankruptcy Court for the Southern District of Texas (Corpus Christi Division).	No Data Submittal	No problems encountered.	100%
10. Groundwater Technical Working Group (TWG)-Groundwater Model Work Plan	Custodial Trust/EPA/MDEQ/MDOJ	1. The Custodial Trust interviewed references for the preferred team for performing groundwater modeling and hydrogeologic services.	No Data Submittal	No problems encountered.	- %

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
11. Regulatory Compliance	Custodial Trust	<ol style="list-style-type: none"> 1. EPA authorized the Custodial Trust to retain Hydrometrics to provide Regulatory Compliance and onsite Health and Safety support. 2. Routine inspections of health and safety systems, CAMU's, temporary liners and hazardous waste roll-offs were completed. 3. Completed minor repairs to temporary liners. 4. EPA and MDEQ inspected the documents that had been recovered from the CAMU #2 and deemed them appropriate for disposal as hazardous waste. 5. MDEQ issued a letter granting the Custodial Trust a thirty-day extension on the disposal of the documents recovered from the CAMU #2. The documents need to be disposed of by January 24th. 	A letter was sent to MDEQ requesting a 30-day extension for storing the documents recovered from CAMU #2.	The documents recovered from the CAMU #2 could not be disposed of by the ASD end date of December 26 th . A 30-day extension was granted by MDEQ on December 27 th .	On Going
Regulatory Compliance (cont.)		<ol style="list-style-type: none"> 6. The Custodial Trust submitted the monthly DMR's to MDEQ pursuant to the requirements of the MPDES permit on December 27th. 	The monthly DMR's were submitted on December 27 th .	No problems encountered.	On Going
12. Health and Safety	Custodial Trust	<ol style="list-style-type: none"> 1. East Helena Personnel completed OSHA Hazwoper 8-hour refresher training. 2. The Custodial Trust met with the East Helena health and safety specialist to address training, certification and vehicle decontamination procedures applicable to vendors, suppliers contractors and other users of the property who require regular access to the site. 	No Data Submittal	No problems encountered.	On Going

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
13. Documents and Records	Custodial Trust	1. EPA, USDOJ and the Custodial Trust reviewed issues and plans for segregation and preservation of documents and records at the site. EPA and the Custodial Trust finalized plans to begin the gross segregation process on December 27 th .	No Data Submittal	No problems encountered.	On Going
14. Site Security	Custodial Trust	1. East Helena personnel installed additional “no trespassing” signs on the eastern soil repository perimeter fence on December 22 nd .	No Data Submittal	No problems encountered.	Ongoing
15. Water Treatment Plant	Custodial Trust	1. East Helena personnel completed relocation of the H2S alarm near the HDS neutralization tank. 2. East Helena personnel repaired the check valve that controls effluent discharged from the HDS plant to prevent freezing.	No Data Submittal	No problems encountered.	Ongoing

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
16. Plant Operations	Custodial Trust	<ol style="list-style-type: none"> 1. The Custodial Trust presented EPA the options and costs for leasing or purchasing modular offices to house Custodial Trust offices in East Helena. Following the meeting, the Custodial Trust pursued further discussions and negotiations with Pacific Mobile for the purchase, delivery, and installation of modular offices. 2. East Helena personnel escorted the Chairman of the Lewis and Clark County Historical Society on a tour of the former Asarco Mangers House. 3. East Helena personnel reviewed inventory, options and beneficiary recommendations for recycling scrap metal on site. 4. The Custodial Trust submitted Chemet's offer to purchase the rotary melter and oxygen tank to EPA for approval. 5. East Helena personnel removed ice buildup that had accumulated on the smelter and UL diversion dams. 6. East Helena personnel repaired electrical systems in the Environmental Building. 7. East Helena personnel repaired damage to the Coverall buildings caused by high winds. 8. East Helena personnel began preparing the Mondi piping inventory for salvage and sale of scrap. 	No Data Submittal	No problems encountered.	Ongoing

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
17. Personnel and Office Operations	Custodial Trust	1. The Custodial Trust worked with ITC to address internet and network problems at the administrative offices in East Helena.	No Data Submittal	No problems encountered.	Ongoing
18. Financial Affairs	Custodial Trust	<ol style="list-style-type: none"> 1. The Custodial Trust, EPA, and CH2M Hill reviewed requirements for additional analyses for 2012 East Helena Cleanup Budget account budget forecast on December 7th. 2. EPA approved the Custodial Trust's request for approval to increase the East Helena Cleanup Account Budget for Level 2 Cost Center II.N. on December 22nd. 3. The Custodial Trust finalized correspondence to CH2M Hill documenting concerns about invoicing practices and protocols on December 22nd. 4. CH2M Hill provided the Custodial Trust with revised budget estimates for SPHC and other interim measures to be performed in 2012. 5. The Custodial Trust continued to revise and update the EHCUC Account 2012 Budget. 	No Data Submittal	No problems encountered.	Ongoing

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
19. Property Use/ Development	Custodial Trust	<ol style="list-style-type: none"> The Custodial Trust had discussions with H&H Metals, Montana Rail Link, and TECK regarding slag reprocessing, rail service expansion, and siting slag reprocessing facilities. Slag reprocessing continued in December 2011. Eleven rail cars were loaded with crushed slag for transport to the TECK facility in Trail, B.C. The Custodial Trust also requested H&H Metals follow-up on shipped slag weights and protocols for weighing crushed slag during rail car loading. The Custodial Trust, EPA, USDOJ, MDEQ, and MDOJ finalized plans to meet with American Chemet, MRL and CTA to review property expansion requirements. The Custodial Trust finalized correspondence requesting exclusion from the Sprint class action settlement, which grants Sprint an easement on Custodial Trust property. MDOJ provided the City and the County with information about Missoula County's use of a subdivision exemption as a vehicle for effecting the transfer of the parcel requested for a Lewis and Clark County Search and Rescue facility on December 5th. The Custodial Trust and CTA/MXD reviewed draft materials required for the Opportunities & Constraints Plan and results of preliminary market study. 	No Data Submittal	No Problems Encountered	Ongoing

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
20. Community and Local Meetings	Custodial Trust	<ol style="list-style-type: none"> 1. Meeting with Lewis and Clark County Historic Preservation Officer on December 21st. 2. East Helena Technical meeting on December 15th. 3. Kickoff meeting for EPA-NREL renewable energy feasibility study on December 18th. 4. Conference call with EPA, MDEQ, MDOJ, USDOJ, Lewis and Clark County Board of Health, LEAP, and the Custodial Trust to review plans for East Helena Public Meeting and Open House on December 19th. 	No Data Submittal	No Problems Encountered	Ongoing

SECTION 2. ACTIVITIES SCHEDULED FOR JANUARY 2012

Task	Performing Entity	Description
Field Sampling and Analysis Plan (FSAP)	Hydrometrics	No activities planned for January 2012
Baseline Ecological Risk Assessment (BERA) and Human Health Risk Assessment (HHRA)	CH2M Hill, Exponent, Gradient	No activities planned for January 2012
Corrective Measures Study	CH2M-Hill	<ul style="list-style-type: none"> Continuation of CMS workplan. Review of conceptual designs.
South Plant Hydraulic Control	Hydrometrics, Pioneer Technical Services, CH2M-Hill, Morrison-Maierle, Inc., Applied Geomorphology Inc.	<ul style="list-style-type: none"> Continuation of Upper Lake Drawdown test. Prickly Pear Creek diversion permitting requirements. Selection of candidate for groundwater modeling and hydrogeological services.
Property Use/Development	East Helena	<ul style="list-style-type: none"> H&H Metals to continue slag crushing. Meeting with Chemet, EPA, MDEQ, MDOJ, USDOJ, CTA, and MRL to discuss Chemet's expansion needs.
Monthly inspection of six temporary cap areas.	TS Consulting	Monthly inspections of the temporary cap areas will continue in January 2012.
CAMU Inspections	TS Consulting/Custodial Trust	Routine inspections of CAMU #1 (monthly) and CAMU #2 (weekly) will continue in January 2012.
Water Treatment Plant	Custodial Trust	No plans to operate water treatment plant in January 2012.
Financial Affairs	Custodial Trust	Submit the 2012 East Helena Cleanup Account budget to EPA.
City and County Meeting	East Helena City Council/Custodial Trust	Presentation on the SPHC interim measure on January 17 th .
Beneficiaries Meeting	EPA/MDEQ/MDOJ/Custodial Trust	Monthly beneficiaries meeting.
EHECTIC Meeting	Custodial Trust/EPA	Meeting scheduled on January 12 th .
Public Meeting	Custodial Trust/EPA	Public meeting/open house at East Valley Middle School on January 18 th .

Section 3. Describe and estimate the percentage of studies completed.

No projects or studies were completed in December 2011. A complete listing of projects completed in 2011 will be reported in the January 2012 Progress Report.

Section 4. Describe Actions being taken to address problems.

There were no actions required to address problems associated with the Decree.

Section 5. Identify changes in key personnel during the period.

There were no changes in personnel in December 2011.

Section 6. Describe the status of financial assurance mechanisms, including whether any changes have occurred, or are expected to occur which might affect them, and the status of efforts to bring such mechanisms back into compliance with the requirements of this Decree.

The Custodial Trust received funds for Environmental Actions earmarked for site clean-up in connection with the ASARCO bankruptcy settlement. The Custodial Trust deposited the funds in a segregated East Helena Clean-up account and is investing and managing the funds in accordance with the provisions of the Settlement Agreement. Issues related to the CAMU trust are stilling being resolved between the beneficiaries and ASARCO.

Please do not hesitate to contact me if you have any questions.

Montana Environmental Trust Group, LLC,
Trustee of the Montana Environmental Custodial Trust
By: Greenfield Environmental Trust Group, Inc., Member

Marc Weinreich
Vice-President

cc: Denise Kirkpatrick - MDEQ
Randy Breeden - EPA 8
Chuck Figur - EPA 8

CERTIFICATION
PURSUANT TO U.S. v ASARCO INCORPORATED
(CV-98-3-H-CCL, USDC, D. Montana)

"I certify under penalty of law that this document and all attachments, were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

Montana Environmental Trust Group, LLC,
Trustee of the Montana Environmental Custodial Trust
By: Greenfield Environmental Trust Group, Inc., Member

Marc Weinreich
Vice-President